

Attorney Docket No.: **WSTR-0014C**  
Inventors: **Shiekhattar, Ramin**  
Serial No.: **10/634,574**  
Filing Date: **August 5, 2003**  
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**REMARKS**

Claims 1-17 are pending in this application. No new matter has been added. Applicant is respectfully requesting reconsideration of the restriction requirement in view of the following remarks.

The claims of the present application have been subjected to a subsequent Restriction Requirement under 35 U.S.C. §121 by the Examiner in this case. The Examiner suggests that restriction of the present invention into the following groups is required:

Group I, claims 1-3 (pertaining to agents the interact with nucleic acid sequences), drawn to methods of modulating the activity of at least one component of a BRCA1-BRCA2-containing complex;

Group II, claims 1-3 (pertaining to agents the interact with a protein), drawn to methods of modulating the activity of at least one component of a BRCA1-BRCA2-containing complex;

Group III, claims 7-9 and 14, drawn to agents;

Group IV, claims 10-12 and 15, drawn to a method for treating cancer comprising using an agent of claims 4, 5, 6 or 13;

Group V, claims 4-6 and 13, drawn to a method for identifying agents that modulate the activity of BRCC or that inhibit the expression of BRCC36 or BRE protein;

Group VI, claim 16, drawn to an antibody that recognizes BRCC36 or BRE protein;

Group VII, claim 17 (pertaining to levels of nucleic acids detected), drawn to a method for diagnosing cancer; and

Group VIII, claim 17 (pertaining to levels of protein detected), drawn to a method for diagnosing cancer.

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The Examiner suggests that the inventions listed as Groups I-VIII are distinct. In particular, while it is acknowledged that Groups I and II are directed to related processes, the methods are suggested to be mutually exclusive as Group I requires the use of nucleic acids and Group II requires the use of proteins. It is further acknowledged that Groups VII and VIII are directed to related processes, however, it is suggested that the methods of Group VII require the use of nucleic acids, whereas the methods of groups VIII require the use and protein and therefore the methods are mutually exclusive. It is suggested that Groups I and IV, V, VII, and VIII are unrelated as they are drawn to different processes that have different designs and different modes of operation. It is likewise suggested the Group II and IV, V, VII, and VIII are unrelated as they are drawn to different processes that have different designs and different modes of operation. The Examiner also suggests that Groups III and V are unrelated because the agents of Group III modulate the activity of either the nucleic acid or protein product of a BRCA1-BRCA2 complex, whereas the method of Group V is drawn to identify agents that modulate activity of BRCC or that inhibit the expression of BRCC36 or BRE protein. It is further suggested that Groups III and VI are unrelated as the agents of Group III are agents that modulate that activity or expression of either the nucleic acid or protein product of a BRCA1-BRCA2 complex, whereas the antibodies of Group VI recognize BRCC36 or BRE protein. It is acknowledged that Groups III and IV are related as product and process of use; however these groups are suggested to be distinct because there are multiple methods for treating cancer that rely on materially different products. Likewise, the Examiner

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acknowledges that Groups VI and VIII are related as product and process of use; however, the Groups are suggested to be distinct because the agents may be used in *in vitro* methods of inhibiting the expression of BRCC36 or BRE. Applicant is required to elect one of the Groups to be examined. Applicant respectfully disagrees and traverses this restriction requirement.

In particular, Applicant respectfully believes that the search and Examination of the claims of Groups I and II are coextensive with a search of the claims of Group V. Group I relates to the use of agents which interact with nucleic acid sequences or proteins encoding BRCC36 or BRE for modulating the activity of at least one component of a BRCC. Claims 4-6 and 13 pertains to a method for identifying such agents. Applicant respectfully believes that a search of the relevant prior art for methods of using BRCC36 and BRE as targets would reveal art related to the subject matter of claims 4-6 and 13. Therefore, no additional burden would be incurred by the Examiner in this case by searching and examining together the subject matter of Groups I, II and V. Accordingly, reconsideration of this Restriction Requirement is respectfully requested.

However, in an earnest effort to be completely responsive, Applicant hereby elects to prosecute Group V, claims 4-6 and 13, drawn to methods for identifying agents that modulate the

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activity of BRCC or that inhibit the expression of BRCC36 or BRE protein, classified in class 435, subclass 6, with traverse.

Respectfully submitted,



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